

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Ortiz Analyst: Roger Lackey Bill Number: SB 1980

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 07-06-2000

Attorney: Patrick Kusiak Sponsor:

SUBJECT: FTB Permit Tthe Director of the Department or Social Services to Inspect Returns of Group Home Licensees

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED May 3, 2000, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

This bill, as it affects the department, would require the Franchise Tax Board (FTB) to permit the Director of Social Services (DSS) to inspect the income tax returns of a group home licensee where DSS has determined there is reasonable suspicion that the licensee has committed fraud that could be validated by specific and identified tax information.

This analysis will not address the bills other changes regarding group home providers as these other changes do not impact the department.

SUMMARY OF AMENDMENTS

The July 6, 2000, amendments made changes relating to DSS and the reporting of fraud to the Department of Justice rather than the Office of the Attorney General (AG). These changes would not impact the department.

Except for the board's position, the department's analysis of the bill as amended May 3, 2000, still applies. The implementation considerations have been included below for convenience.

Implementation Considerations

The bill would require the department to develop a new type of notice. Since DSS could request different information for each group home, the notice would have to be tailored for the specific information provided. However, assuming the number of requests by DSS would not be large, the impact of providing this information and sending notices to group home licensees is not expected to be significant.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input checked="" type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Johnnie Lou Rosas

7/27/00

The bill contemplates referral of allegations of fraud by group home providers to a unit within the Office of the AG for further investigation and prosecution. The bill does not authorize disclosure of tax return information to the AG in connection with referral and investigations of fraud as contemplated by the bill. The disclosure of tax return information from DSS to the Office of the AG would be a violation of the state's existing disclosure laws.

The bill would permit DSS to inspect the income tax returns of a group home licensee where it has been determined, based on reasonable suspicion, that a group home licensee has committed fraud. "Reasonable suspicion" is not defined. Many criminal investigations require a showing of "probable cause" that a crime has been committed. It is not clear how "reasonable suspicion" under the bill differs from "probable cause."

POSITION

No position.

At its July 5, 2000, meeting, the Franchise Tax Board agreed to take no position on this bill.